

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America,

Criminal No. 11-25 (1) (RHK/FLN)

Plaintiff,

**ORDER**

vs.

Robert Ellis Hastings,

Defendant.

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On June 10, 2011, Defendant Hastings pled guilty to felon in possession of a firearm, in violation of 18 U.S.C. § 922(g) and 924(e). Section 924(e) carried a mandatory minimum 180-month sentence. On September 7, 2011, he was sentenced to the 180-month mandatory minimum sentence. The Eighth Circuit thereafter affirmed the conviction.

As the Government points out in its opposition to the Motion:

18 U.S.C. § 3582(c) provides that the Court may not modify a term of imprisonment once it has been imposed, except in certain limited circumstances, none of which apply here. This case does not involve a motion by the Director of the Bureau of Prisons as provided for in § 3582(c)(1)(A); it is not permitted under Rule 35, Federal Rules of Criminal Procedure, as more [than] 14 days have elapsed since sentencing, (assuming the existence of some error, which there was not) as provided for in § 3582(c)(1)(B); nor has the defendant's guideline range been lowered by the Sentencing Commission, let alone lowered with retroactive effect. § 3582(c)(2). See United States v. Smiley, 553 F.3d 1137, 1142 (8<sup>th</sup> Cir. 2009) (a District Court has no jurisdiction to alter a sentence, even if legally erroneous, more than 7 days after its imposition) (Fed. R. Crim. Pro. 35(A) amended [to 14] days in 2009); see also

United States v. Wheeler, 2011 WL 2415158 (E.D. Mo. June 17, 2011) (unpublished).

Accordingly, Defendant's Motion for Sporting Purposes Reduction (Doc. No. 76) is **DENIED**.

Dated: January 4, 2013

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge